

RIGHT OF WAY USE PERMIT - SPECIAL EVENT

Permittee: _____
Sponsoring Organization

By: _____
Title

TYPE OF SPECIAL EVENT:

Does the Special Event include the consumption of alcoholic beverages: ____yes ____no

The City of Midland hereby extends this permit to the above named Permittee to hold the special event described above on City of Midland Right of Way at the location as shown on the site plan, attached hereto as Exhibit "A" and on the following dates and times:

Permittee acknowledges that the City of Midland may unilaterally revoke this permit at any time. In consideration herefor, the Permittee agrees to the following conditions:

- 1) It will indemnify and hold harmless and defend City and all of City's officers, agents and employees from all suits, actions, claims, damages, personal injuries, losses, property damage and expenses of any character whatsoever, including attorney's fees, brought for or on account of any negligent act of Permittee, its agents or employees, in the execution, supervision and operations growing out of or in any way connected with the special event described above, and Permittee will be required to pay any judgment with costs which may be obtained against City or any of its officers, agents or employees, including attorney's fees.

Permittee shall indemnify and hold harmless and defend City and all of City's officers, agents and employees from all suits, actions, claims, damages, personal injuries, property damage, losses, and expense of any character whatsoever including attorney's fees, brought for or on account of any injuries or damages received or sustained by any person or persons or property, **ON ACCOUNT OF ANY NEGLIGENT ACT OF CITY, CITY'S OFFICERS, AGENTS, AND EMPLOYEES, WHETHER SUCH NEGLIGENT ACT WAS THE SOLE PROXIMATE CAUSE OF THE INJURY OR DAMAGE OR A PROXIMATE CAUSE JOINTLY AND CONCURRENTLY WITH PERMITTEE OR PERMITTEES EMPLOYEES, OR AGENTS NEGLIGENCE, IN THE EXECUTION, SUPERVISION AND OPERATIONS GROWING OUT OF OR IN ANY WAY CONNECTED WITH THE SPECIAL EVENT DESCRIBED ABOVE AND PERMITTEE WILL BE REQUIRED TO PAY ANY JUDGMENT WITH COSTS WHICH MAY BE OBTAINED AGAINST CITY OR ANY OF ITS OFFICERS, AGENTS OR EMPLOYEES INCLUDING ATTORNEY'S FEES.**

- 2) To carry a general liability insurance policy that provides public liability coverage in the minimum amount of \$1,000,000.00 for bodily injury to or death of one or more persons and \$250,000.00 for property damage per occurrence, which policy shall be in effect on the day of operation of the special event. A Certificate of Insurance from an insurance carrier licensed to conduct business in the State of Texas setting forth the amounts and types of insurance shall be submitted to the City prior to the issuance of this permit. The Certificate of Insurance shall name the event sponsor as the insured and shall further name the City of Midland, Texas, as an additional insured. Self insurance or a self insurance retention does not satisfy the insurance requirements of this section, and the City will not accept self insurance or a self insurance retention for purposes of this permit.
- 3) To abide by all federal, state and local laws during the time of operation of the special event.
- 4) To properly barricade the right of way described in Exhibit "A" in accordance with the requirements set forth in the Texas Manual on Uniform Traffic Control Devices and any instructions issued by the City's Traffic Engineer.
- 5) To provide ____ number of certified peace officers at the special event during all hours the special event is being held.
- 6) In the event that alcoholic beverages will be consumed in the right of way set forth in Exhibit "A" during said special event, the Permittee shall carry legal liquor liability insurance from an insurance carrier licensed to do business in the State of Texas in the amount of \$500,000.00 which shall be in effect on the day of operation of the special event. A Certificate of Insurance setting forth the amount and type of such insurance shall be submitted to the City prior to the issuance of this permit. The Certificate of Insurance shall name the event sponsor as the insured and shall further name the City of Midland, Texas, as an additional insured.
- 7) **NOTWITHSTANDING ANY OTHER PROVISION, PERMITTEE HEREBY RELEASES, ACQUITS, RELINQUISHES AND FOREVER DISCHARGES CITY, CITY'S EMPLOYEES AND OFFICERS, FROM ANY AND ALL DEMANDS, CLAIMS, DAMAGES, OR CAUSES OF ACTION OF ANY KIND WHATSOEVER WHICH PERMITTEE HAS OR MIGHT HAVE IN THE FUTURE, INCLUDING BUT NOT LIMITED TO BREACH OF CONTRACT, QUANTUM MERUIT, CLAIMS UNDER THE DUE PROCESS AND TAKINGS CLAUSES OF THE TEXAS AND UNITED STATES CONSTITUTIONS, TORT CLAIMS, OR CITY'S NEGLIGENCE.**
- 8) The Permittee and the City of Midland acknowledge that this permit is supported by good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged.

9) The Permittee acknowledges and agrees that this shall constitute a written contract between the City and the Permittee.

10) Other provisions:

This permit does not relieve the Permittee from the obligation of observing all applicable ordinances of the City of Midland, Texas.

SIGNED AND ISSUED this ____ day of _____, 20__.

CITY OF MIDLAND, TEXAS

By: _____

City Manager or Designee

PERMITTEE: _____

APPROVED AS TO FORM:

Keith Stretcher, City Attorney

NOTARY AFFIDAVIT

STATE OF TEXAS §

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COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, personally appeared _____, known to me, and on oath stated that he executed the foregoing document for the purposes and considerations therein expressed and an act and deed of the City of Midland, Texas.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ____ day of _____, 20__.

Notary Public, State of Texas

NOTARY AFFIDAVIT

STATE OF TEXAS §

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COUNTY OF MIDLAND §

BEFORE ME, the undersigned authority, personally appeared _____, Permittee, known to me, and on oath stated that he executed the foregoing document for the purposes and considerations therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ____day of _____, 20____.

Notary Public, State of Texas